



Canada Border
Services Agency

Agence des services
frontaliers du Canada

Border Services



Services frontaliers

GUIDANCE ON H'ING

FB Employees working on Variable Shift Schedule Arrangements (VSSA) and Designated Paid Holidays (DPH)

This document provides guidance and examples with respect to FB employees working on Variable Shift Schedule Arrangements (VSSA) who are scheduled to work on a Designated Paid Holiday (DPH) and:

- Are H'd on a DPH; or
- Request leave for the day of the DPH.

The collective agreement articles referenced in this guide refers to the FB collective agreement. However, Employees of the PA collective agreement who also work a VSSA schedule are to be afforded the same compensation outlined herewith but within the applicable articles of the PA collective agreement.

In this guide, a DPH that is moved in accordance with clause 30.04 is treated in the same manner as the actual DPH.

The objective of this guide is to ensure national consistency in the way FB employees working on a VSSA are compensated for a DPH.

CONSEILS SUR LE H-CHÔMÉ

Employés FB travaillant sur aménagements d'horaires de postes variables (AHPV) et congrés fériés payés (H)

Ce document fournit des conseils et des exemples concernant les employés FB travaillant sur aménagements d'horaires de postes variables (AHPV) prévus et requis de travailler un jour férié désigné payé ou un jour férié reporté conformément à l'article 30.04 et :

- sont en H-chômé lors d'un congé férié payé; ou
- demandent un congé le jour même du congé férié.

Les articles de la convention collective mentionnés dans ce guide sont ceux de la convention collective FB. Cependant, les employés du groupe PA qui travaillent également sur un horaire AHPV doivent recevoir la même rémunération que celle décrite ci-dessous, mais en vertu des dispositions des articles de la convention collective PA. Dans ce guide, un H qui est reporté conformément aux dispositions de l'article 30.04 est traité de la même façon qu'un H.

L'objectif de ce guide est d'assurer une constance nationale dans la façon de rémunérer les employés qui travaillent sur des AHPV lors des congrés fériés payés.

1. H'D AT THE REQUEST OF THE EMPLOYEE OR THE EMPLOYER

There is no reference to the term "H'd" in the collective agreements. However, the practice is known as ***based on operational requirements, management can determine that an employee is not required to work his or her scheduled hours of work on a DPH.*** In such cases, the following parameters must be respected:

1. H CHÔMÉ À LA DEMANDE DE L'EMPLOYÉ(E) OU DE L'EMPLOYEUR

Il n'existe pas de référence au terme « H-chômé » dans la convention FB. Toutefois, la pratique reconnue est qu'***en fonction des exigences opérationnelles, la gestion peut déterminer qu'un employé n'a pas à travailler un jour férié qui était prévu à son horaire.*** Dans ces circonstances, voici les paramètres à respecter :

- "At the request of the employee" refers to management seeking one or more volunteers to be H'd on a scheduled DPH

- «À la demande de l'employé» signifie que la gestion a demandé un volontaire pour chômer ce H et qu'ensuite un ou plusieurs employés se portent volontaires

OR

OU

an employee requesting to be H'd on a DPH and management consequently determines that, based on operational requirements, he or she is no longer required to report to work on that particular day.

un employé demande de chômer un H et qu'ensuite la gestion détermine que, selon les exigences opérationnelles, sa présence au travail n'est plus requise cette journée-là.

- "At the request of the employer" refers to, based on operational requirements, management determining that one or more employees are no longer required to report to work on a the DPH.

- «À la demande de l'employeur» signifie que : en fonction des exigences opérationnelles, la gestion a déterminé que la présence au travail d'un ou plusieurs employés n'est plus requise lors d'un H.

Management should provide sufficient notice before Hing, or UnHing, an employee to avoid the payment of the "short shift change" compensation provided for in Article 25.21.

- La gestion devrait s'efforcer de donner un préavis suffisant avant de faire chômer un H et ne pas le faire lorsque l'employé s'est présenté au travail cette journée-là;

On September 23, 2014, it was acknowledged that an FB employee working a VSSA schedule, who is H'd on a DPH, no longer needed to reimburse the difference between the 7.5 hours (length of the DPH according to Article 25.28 (e)(i)) and the number of hours he or she was scheduled to work that day.

En date du 23 septembre 2014, il a été reconnu qu'un employé du groupe FB qui travaille sur un AHPV et qui est chôme un H n'a plus à rembourser la différence entre les 7.5 heures (durée du congé férié payé selon la clause 25.28 (e) (i) et le nombre d'heures prévues à son horaire ce jour-là.

In other words, when an employee is H'd, the DPH is now equal to the employee's scheduled VSSA shift, regardless of whether the DPH was H'd at the request of the employer or the employee. For recording purposes, code 1130 is to be used for all the hours he or she was actually scheduled to work but was H'd.

Autrement dit, la valeur d'un H chôme est jugée être égale à la durée du quart de travail de l'employé et ce, peu importe que ce soit à la demande de l'employeur ou de l'employé. Le code 1130 est alors utilisé pour la totalité des heures prévues à son horaire.

2. H'ING AND SCHEDULING VACATION LEAVE

2. H ET L'ÉTABLISSEMENT DU CALENDRIER DES CONGÉS ANNUELS

When a DPH falls **during a period of vacation leave granted** to an employee, he or she is considered to be H'd on the DPH at the request of the employee.

Lorsqu'un H est **inclus dans la période de congés annuels accordée** d'un employé, il doit être considéré en H chôme à la demande de l'employé.

3. EMPLOYEE REQUESTS AND IS GRANTED
PAID LEAVE ON A HOLIDAY HE OR SHE IS
SCHEDULED TO WORK

3. EMPLOYÉ CÉDULÉ POUR TRAVAILLER
UN H ET QUI DEMANDE UN CONGÉ PAYÉ
QUI LUI EST ACCORDÉ

4. PARTIALLY WORKED DPH

Based on operational requirements, when management determines that an employee is required to work a scheduled DPH, this **DPH cannot be H'd**. The day must be considered a workday and must be compensated in accordance with the provisions of Articles 30.07 and 25.28(e), *Designated Paid Holidays*.

4. H PARTIELLEMENT TRAVAILLÉS

Lorsqu'en fonction des exigences opérationnelles, la gestion détermine qu'un employé doit travailler un H prévu à son horaire, ce H ne peut être chômé. Cette journée doit être considérée comme une journée de travail et doit être rémunérée conformément aux dispositions de l'article 30 «*jours fériés payés*» de la convention FB.

As a result, if an employee reports to work on a DPH and needs to leave after working a few hours, the employee must submit a leave request in accordance with the provisions of their collective agreement that govern that type of leave. The requested leave will be granted in accordance with the respective provisions.

Par conséquent, l'employé qui s'est présenté au travail un H et qui, après avoir travaillé quelques heures doit s'absenter, devra présenter une demande de congé conformément aux dispositions qui régissent ledit congé dans la convention FB. L'octroi du congé se fera en fonction de ces mêmes dispositions.

5. H'D THEN UN-H'D

Due to unforeseen operational requirements, an employee who was originally H'd on a DPH may be called in to work the scheduled shift or even a different shift, on the DPH in question.

In such cases, the employer is deemed to have modified the employee's schedule. For this reason, both Articles 25.21 and 25.28(e) are applied jointly to the change in schedule.

5. H CHÔMÉS, ENSUITE DÉ-CHÔMÉS

Il peut arriver qu'en raison d'exigences opérationnelles imprévues, un employé à qui on a demandé de chômer son H soit rappelé pour travailler le H en question et ce, selon les heures prévues à son horaire ou même à des heures différentes que celles prévues à son horaire.

Dans une telle situation, nous devons considérer que l'employeur a porté modification à l'horaire de l'employé et pour cette raison, le changement à l'horaire prévu à l'article 25.21 doit s'appliquer conjointement à l'article 25.28 e) (30.07).

If an employee working a VSSA schedule is H'd within the required 7-days, the employer is also deemed to have modified his schedule and article **25.21** is to be applied on the employee's next shift worked.

De la même manière, si un employé travaillant sur un AHPV est chôme sans préavis de 7 jours, l'employeur est également réputé avoir modifié son horaire et l'article **25.21** doit être appliqué sur le prochain quart travaillé de l'employé.

Managers who have questions should contact their Regional Labour Relations Advisor for further clarification.

Les gestionnaires qui ont des questions doivent communiquer avec leur conseiller régional en relations de travail pour plus d'information.

Original signed by / Original signé par

Marc Thibodeau

Director General, Labour Relations and Compensation Directorate /
Directeur général, Direction des relations de travail et de la rémunération

DRAFT

Andersen, CatherineD

From: CBSA-ASFC_LRCD_Interpretation_DRTR
Sent: November 10, 2017 09:58 AM
To: Simiganoschi, Vlad
Subject: RE: Holidaying off BSOs

Hi Vlad

Yes, whenever there is a change to a schedule shift within the 7 days, article 25.21 applies. Therefore, it is VERY expensive to un-H someone within 7 days.

I finished the Hing guidance document and am seeking approval for it to be sent to the regions. Hopefully in the next week and it should address most of the questions received lately.

In the interim, please let me know if you require anything further. Thank you!

Catherine

Catherine D Andersen
Tel: 613-946-4288

From: Simiganoschi, Vlad
Sent: November 10, 2017 8:48 AM
To: CBSA-ASFC_LRCD_Interpretation_DRTR <LRCD_Interpretation_DRTR@cbsa-asfc.gc.ca>
Cc: Winter, Daniel <Daniel.Winter@cbsa-asfc.gc.ca>
Subject: FW: Holidaying off BSOs

Hello,

Would you be able to advise if recalling someone (with less than 7-days' notice) after being holidayed off would trigger 25.21 (short shift change)?

I believe that is the message that LRCD Interpretations provided earlier, but I was not privy to those discussions. Thank you,

Vlad Simiganoschi

From: Beck, Eric
Sent: November 10, 2017 8:31 AM
To: Simiganoschi, Vlad <Vlad.SIMIGANOSCHI@cbsa-asfc.gc.ca>
Cc: Winter, Daniel <Daniel.Winter@cbsa-asfc.gc.ca>; Minniti-Rocco, Marisa <Marisa.Minniti@cbsa-asfc.gc.ca>
Subject: RE: Holidaying off BSOs

I totally get your logic Vlad. It is of course a departure from what we've always done and I don't recall anyone ever putting in for a short shift change so it's never come up before.

Marisa – if we can get some kind of official confirmation as to whether 25.21 applies or not that would be great as h'ing has obviously become a bigger issue than before. In the interim we'll do what we've always done by offering the h'd off employee the opportunity to work.

Thanks for everyone's help

Eric

From: Simiganoschi, Vlad
Sent: November 10, 2017 8:26 AM
To: Beck, Eric <Eric.Beck@cbsa-asfc.gc.ca>
Cc: Winter, Daniel <Daniel.Winter@cbsa-asfc.gc.ca>; Minniti-Rocco, Marisa <Marisa.Minniti@cbsa-asfc.gc.ca>
Subject: RE: Holidaying off BSOs

25.21

(a) An employee who is required to change his or her scheduled shift without receiving at least seven (7) days' notice in advance of the starting time of such change in his or her scheduled shift shall be paid for the first (1st) shift worked on the revised schedule at the rate of time and one-half (1 1/2) for the first (1st) seven decimal five (7.5) hours and double (2) time thereafter. Subsequent shifts worked on the revised schedule shall be paid for at straight-time rate, subject to Article 28, Overtime.

Let's say that after I bid I'm scheduled to work November 11 (or whatever day my moved holiday is). I don't request any leave so I plan on working that day. On November 1 (or at any point before Nov. 4) I'm advised by management that I'm not required to be at work (I'm holidayed off) on November 11, as my presence is not required based on "operational requirements". There is nothing I can do about that, so I change my plans accordingly (buy concert tickets, plan a day trip, etc.). But on November 11 a number of BSOs call in sick, and the staffing level fall below the minimums. Management calls me on my cell phone and asks if I want to work my holiday. I accept, and change my plans again. Technically speaking I'm not being offered OT, as I was originally scheduled to work that day. But since I got less than 7-days' notice 25.21 could apply.

I'm going to CC Marisa, to see if that's the right message here. (unfortunately she is off today, and back in on Monday)

Vlad Simiganoschi

From: Beck, Eric
Sent: November 10, 2017 8:09 AM
To: Simiganoschi, Vlad <Vlad.SIMIGANOSCHI@cbsa-asfc.gc.ca>
Cc: Winter, Daniel <Daniel.Winter@cbsa-asfc.gc.ca>
Subject: RE: Holidaying off BSOs

Hmm that is interesting as we have never done that in the past. Opens a bit of a can of worms...

From: Simiganoschi, Vlad
Sent: November 10, 2017 8:08 AM
To: Beck, Eric <Eric.Beck@cbsa-asfc.gc.ca>
Cc: Winter, Daniel <Daniel.Winter@cbsa-asfc.gc.ca>
Subject: RE: Holidaying off BSOs

Hi Eric,

I believe that if you holiday someone in advance, i.e. 14-days' notice, but then you recall them with less than 7-days' notice (from the holiday), they would be entitled to the short shift change. Essentially if you change an employee's schedule with less than 7-days' notice they are entitled to a short shift change, in addition to holiday pay if they are working the holiday.

Dan,

Please chime in if I'm interpreting that wrong.

Vlad Simiganoschi

From: Beck, Eric

Sent: November 10, 2017 8:03 AM

To: Simiganoschi, Vlad <Vlad.SIMIGANOSCHI@cbsa-asfc.gc.ca>; Winter, Daniel <Daniel.Winter@cbsa-asfc.gc.ca>

Subject: FW: Holidaying off BSOs

Hey Vlad – just to confirm because I think there is a bit of confusion here. If we holiday off an employee off with less than 7 days' notice we are on the hook for short shift change whether or not we recall them to work the holiday. But if for example I holiday someone off with 14 days' notice and end up calling them back to work on the holiday they **would not** be entitled to a short shift change. Sharon is under the impression that anytime we call back an employee they would be entitled to shift change. Can you clarify please?

Thanks

From: Dunwoody, Sharon

Sent: November 8, 2017 6:52 AM

To: Beck, Eric <Eric.Beck@cbsa-asfc.gc.ca>

Subject: Holidaying off BSOs

I hope all is well. Below is some advice and guidance that was recently provided to the Ambassador Bridge by my colleague Florence Schincariol related to this topic. I don't believe there is an actual "policy". Please note that the Labour Relations Consultant that is responsible for the Tunnel is Daniel Winter. You should contact him directly if you require further information.

Here are some points that may help when looking at H'g employees:

- H'g is considered once all operational requirements have been met and provisions of the CA have been respected
- Operational requirements is the key driver for H'g employees
- When deciding who should be H'd, management is encouraged to look at leave and volunteers first
- With regards to recalling an EE who was previously H'd
 - the Clarkson decision stated: *the adjudicator found that employees are entitled to 7-days notice of being H'd. Therefore, the provisions of Article 25.20 apply, otherwise known as compensation for a "short shift change". The adjudicator found that the grievor was entitled to a short shift change when the employer only provide 3 days notice when "H'ing" (the collective agreement stipulates that 7 days advance notice is required).*
 - Also recalling an employee that was previously H'd within 7 days may be more costly as they will be getting holiday pay and short-shift change pay.
- H'g is done fairly and equitably – mngt is encouraged to take into account leave requests and volunteers first.
- Mngt should continuously monitor/review the situation (i.e. traffic volumes, leave requests etc.) to ensure operational requirements are met and determine if H'g is required
- The CA does not require management to 'post' a list of EEs who have been H'd – most sites try to keep a list of some sort to ensure H'g is done in a fair and equitable manner

With regard to the questions H'g BSO's then calling OT and recalling

Question 2: Should Management be offering overtime on a Designated Paid Holiday as opposed to recalling an employee that was previously H'd (as proposed in question 1)? If so, would this be contrary to H'ing employees in the first place (e.g. saying to an employee we are H'ing you as we don't require you to work on the Holiday, but on the actual holiday they are short staffed and need extra people to come in)?

Regional LR Analysis: An employee that is H'd is essentially not needed or required to work on a DPH, and as such, should not be recalled to work on the Holiday. LR would construe this as similar to recalling an employee from vacation, and would suggest avoiding this unless absolutely necessary. After conversing with Management on the topic, it was agreed that alternative measures would be best (e.g. pulling staff from other operations, merging employees from Commercial and Traffic to cover both operations, etc.) prior to considering calling overtime on a DPH.

Corporate LR Programs Response: If an employee is "H"d, management is saying that the employee is not required on that day so there will be some kick back from employees if management calls in overtime on a DPH after they were "H"d. However, recalling an employee that was previously H'd within 7 days may be more costly as they will be getting holiday pay and short-shift change pay.

LR Programs does not consider recalling an employee from an "H" day the same as recalling from vacation leave (employer v employee driven), however, agrees that this should be avoided unless absolutely necessary. Therefore, when H'ing employees,

As it was suggested in your request, merging employees from other areas like Commercial and Traffic to cover both operations, etc. should be considered prior to overtime being called on a holiday.

Vlad Simiganoschi

Labour Relations Consultant, Human Resources - Southern Ontario Region
Canada Border Services Agency | Government of Canada
Vlad.Simiganoschi@cbsa-asfc.gc.ca | Tel: 519-967-4122 | TTY: 866-335-3237

Consultant en relations de travail, Ressources Humaines - Région du sud de l'Ontario
Agence des services frontaliers du Canada | Gouvernement du Canada
Vlad.Simiganoschi@cbsa-asfc.gc.ca | Tél : 519-967-4122 | ATS : 866-3353237

From: Fummerton, Mike
Sent: November 7, 2017 1:12 PM
To: Simiganoschi, Vlad <Vlad.SIMIGANOSCHI@cbsa-asfc.gc.ca>
Subject: Holidaying off BSOs

Hello Vlad,

They have recently began Holidaying off BSOs in an effort to curb spending. Would you be able to forward me the authority and/or policy that allows this, please??

Thank you,

Mike Fummerton

Andersen, CatherineD

From: Laviolette, Jonathan
Sent: November 9, 2017 03:26 PM
To: Andersen, CatherineD
Subject: RE: Guidance on H-ing - Nov 8 2017 version.docx
Attachments: Guidance on H-ing - Nov 8 2017 version - QC comments.docx

Hi Catherine,

I have proposed a few modifications (in red) and comments (in purple). I've also translated and corrected the French version.

What do you think?

Jonathan

De : Andersen, CatherineD
Envoyé : 9 novembre, 2017 11:25
À : Laviolette, Jonathan <Jonathan.Laviolette@cbsa-asfc.gc.ca>
Objet : Guidance on H-ing - Nov 8 2017 version.docx

Hi Jonathan

Thank you for your assistance yesterday, it was very much appreciated. I have made changes to the English portion of the guideline and I am seeking your input as to whether or not it is clear. Al and I discussed again this morning and if the issue of the partial leave day is system-related, that can be fixed. So it was decided that in order to be consistent, the DPH has a value of 7.5 hours (25.28 (e)(i)) regardless if the leave request is for a full or partial day.

Further as there is consideration to allowing the PA group the same compensation, I have included them in this email, however, this also to the best of my knowledge, has not been finalized.

Ultimately, the final version will require the approval of senior managers. Merci.

Thank you.

Catherine

Catherine D. Andersen
Senior Labour Relations Advisor, Human Resources Branch
Canada Border Services Agency / Government of Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

Counseillère principale en relations de travail / Direction générale des ressources humaines
Agence des services frontaliers du Canada / Gouvernement du Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

Andersen, CatherineD

From: Cardinal, Jennifer
Sent: November 9, 2017 07:51 AM
To: Andersen, CatherineD
Subject: RE: H'ing - do you have time to discuss leave on a DPH with me, please?

Hi Catherine,

I am available after 2:00 today if that works for you.

Jennifer Cardinal
Manager Labour Relations, Corporate and Program Services Division
Canada Border Services Agency / Government of Canada
Jennifer.Cardinal@cbsa.gc.ca / Tel : 613-991-5067 / TTY : 866-335-3237

Gestionnaire des relations de travail, Division des services organisationnels et programmatiques
Agence des services frontaliers du Canada / Gouvernement du Canada
Jennifer.Cardinal@cbsa.gc.ca / Tél. : 613-991-5067 / ATS : 866-335-3237

From: Andersen, CatherineD
Sent: November 8, 2017 11:50 AM
To: Cardinal, Jennifer <Jennifer.Cardinal@cbsa-asfc.gc.ca>
Subject: H'ing - do you have time to discuss leave on a DPH with me, please?
Importance: High

Catherine

Catherine D. Andersen
Senior Labour Relations Advisor, Human Resources Branch
Canada Border Services Agency / Government of Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

Counsellère principale en relations de travail / Direction générale des ressources humaines
Agence des services frontaliers du Canada / Gouvernement du Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

Andersen, CatherineD

From: Laviolette, Jonathan
Sent: November 8, 2017 12:43 PM
To: Andersen, CatherineD
Subject: RE: H'ing - do you have time to discuss, please?

Sure!

You can call me at your convenience. I will be in until 3h30.

Jonathan

De : Andersen, CatherineD
Envoyé : 8 novembre, 2017 11:26
À : Laviolette, Jonathan <Jonathan.Laviolette@cbsa-asfc.gc.ca>
Objet : H'ing - do you have time to discuss, please?

Catherine

Catherine D. Andersen
Senior Labour Relations Advisor, Human Resources Branch
Canada Border Services Agency / Government of Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

Counsellère principale en relations de travail / Direction générale des ressources humaines
Agence des services frontaliers du Canada / Gouvernement du Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

Andersen, CatherineD

From: Mullin-Baker, Patricia
Sent: October 23, 2017 08:30 AM
To: Laviolette, Jonathan; Andersen, CatherineD
Subject: RE: H'ing guide / Guide sur H'Chômé

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Jonathan,
Thanks for the clarification and additional information. Your request is in good hands as Catherine is the resident expert on H'ing.

I am sure she will get back to you as soon as she can.

Thanks,

Patricia

From: Laviolette, Jonathan
Sent: October 23, 2017 8:26 AM
To: Mullin-Baker, Patricia <Patricia.Mullin-Baker@cbsa-asfc.gc.ca>; Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>
Subject: RE: H'ing guide / Guide sur H'Chômé

Hi Patricia,

It is not an interpretation request but rather an inquiry as to what is going on with that document. It was in its final approval stage in October 2016 and was scheduled to be shared with all managers afterwards... We haven't heard from HQ since.

Bernard Noreau and I had prepared the initial document, which was then remodeled by Andrew Crain, but the interpretations remained the same.

Since Quebec seemed to be the most experienced region in terms of H'ing, we were the ones leading the whole thing.

Other regions would greatly benefit from this document as they are now facing different situations and some are not quite sure how to deal with them. Obviously, common practices are also to be encouraged throughout the regions.

I believe Al was aware of this document and could shed some light as to what happened last October.

Thanks!

Jonathan

De : Mullin-Baker, Patricia
Envoyé : 19 octobre, 2017 3:27
À : Laviolette, Jonathan <Jonathan.Laviolette@cbsa-asfc.gc.ca>
Objet : RE: H'ing guide / Guide sur H'Chômé

Hi Jonathan,

I will ask my colleague Catherine Andersen to look at this seems to be more of an interpretation request.

We will do our best to get back to you as soon as possible.

Thanks and happy Thursday to you too!

Patricia

From: Laviolette, Jonathan

Sent: October 19, 2017 2:58 PM

To: Mullin-Baker, Patricia <Patricia.Mullin-Baker@cbsa-asfc.gc.ca>

Subject: TR: H'ing guide / Guide sur H'Chômé

Importance: High

Hi Patricia,

I sent the e-mail below to Samuel, but Annie-Sophie mentioned to me that I probably should have sent it to you instead...

Can you take a look at my request, talk to Samuel if necessary and either one of you get back to me with an update as soon as possible?

Thanks a lot!

Have a great day.

Jonathan

De : Laviolette, Jonathan

Envoyé : 19 octobre, 2017 1:24

À : Potvin, Samuel <Samuel.Potvin@cbsa-asfc.gc.ca>

Cc : Rossi, Jean-Philippe <Jean-Philippe.Rossi@cbsa-asfc.gc.ca>; Bazinet, Annie-Sophie <Annie-Sophie.Bazinet@cbsa-asfc.gc.ca>

Objet : TR: H'ing guide / Guide sur H'Chômé

Importance : Haute

Bonjour Samuel,

Pourrais-tu me dire où on en est avec l'approbation et la distribution de ce document?

Je l'avais élaboré avec Andrew Crain pour aider les gestionnaires à gérer les différentes situations de H chômé.

Il semble que ce soit tombé dans l'oubli depuis ce temps-là, mais une récente demande du VP ops au sujet des H chôvés me fait croire que ce serait pertinent de revoir le tout et de le partager aux gestionnaires de l'organisation.

Je suis disponible si tu as des questions.

Bonne fin de journée.

Jonathan Laviolette-Farbotko

Conseiller technique en relations de travail, Division des ressources humaines

Agence des services frontaliers du Canada / Gouvernement du Canada
jonathan.lavolette@cbsa-asfc.gc.ca / Tél. : 514-283-8700 poste 8317 / ATS : 866-335-3237

Labour Relations Technical Advisor, Human Resources Division
Canada Border Services Agency / Government of Canada
jonathan.lavolette@cbsa-asfc.gc.ca / Tel: 514-283-8700 extension 8317 / TTY : 866-335-3237

De : Crain, Andrew

Envoyé : 27 octobre, 2016 8:48

À : MacPhee, Jennifer <Jennifer.MacPhee@cbsa-asfc.gc.ca>; Bazinet, Annie-Sophie <Annie-Sophie.Bazinet@cbsa-asfc.gc.ca>; Cardinal, Jennifer <Jennifer.Cardinal@cbsa-asfc.gc.ca>; Minniti-Rocco, Marisa <Marisa.Minniti@cbsa-asfc.gc.ca>; Lambert, Dawn <Dawn.Lambert@cbsa-asfc.gc.ca>; Smith, Janis <Janis.Smith@cbsa-asfc.gc.ca>; Oslund, Jodi <Jodi.Oslund@cbsa-asfc.gc.ca>; Breau, Nadine <Nadine.Breau@cbsa-asfc.gc.ca>; Lake, Susan <Susan.Lake@cbsa-asfc.gc.ca>; Lavolette, Jonathan <Jonathan.Lavolette@cbsa-asfc.gc.ca>; Laing, Erika <Erika.Laing@cbsa-asfc.gc.ca>
Cc : Campbell, Al <Al.Campbell@cbsa-asfc.gc.ca>; Wright, Cassandra <Cassandra.Wright@cbsa-asfc.gc.ca>; Carpinteiro, Lisa <Lisa.Carpinteiro@cbsa-asfc.gc.ca>; Allain Osborne, Claudelle <Claudelle.Allain.Osborne@cbsa-asfc.gc.ca>; McWilliam, Tracy <Tracy.McWilliam@cbsa-asfc.gc.ca>; Mlinarevic, Kathy <Kathy.Mlinarevic@cbsa-asfc.gc.ca>; Forte, Anne <Anne.Forte@cbsa-asfc.gc.ca>; Smith, Janand <Janand.Smith@cbsa-asfc.gc.ca>; Underwood, Marlene <Marlene.Underwood@cbsa-asfc.gc.ca>

Objet : H'ing guide / Guide sur H'Chôme

Good Morning

Please provide us with your region's comments on the attached by end of day on October 31st.

Bon matin,

Veuillez svp nous faire parvenir les commentaires de votre région sur la pièce jointe au plus tard le 31 octobre.

Thank you / Merci

Andrew Crain

Senior Labour Relations Advisor / Conseiller principal en relations de travail
Canada Border Services Agency / Agence des services frontaliers du Canada
Ottawa ON
Office: (613) 948-9859 (New/Nouveau)

Andersen, CatherineD

From: Andersen, CatherineD
Sent: November 9, 2017 11:16 AM
To: Armstrong, Colin
Subject: RE: Holiday Shift - Leave

Hi Colin

I am working of the Hing Guideline as we speak.

Please avoid any reference to a partial day's leave on the DPH (i.e. employee works shift however has to leave because he or she goes home sick). The direction in this scenario has not be definitely decided.

Thank you.

Catherine

Catherine D Andersen
Tel: 613-946-4288

From: Armstrong, Colin
Sent: November 9, 2017 10:22 AM
To: Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>
Subject: RE: Holiday Shift - Leave

Hi Catherine,

Just wondering where you are with this one?

Can I provide, to mgmt., the information outlined in my email (Nov 1st) below? I know they are patiently waiting for something.

Thanks

Colin Armstrong
Senior HR Consultant, Labour Relations
Canada Border Services Agency| Government of Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 TTY : 866-335-3237

Colin Armstrong
Consultant principal en HR, relations de travail
Agence des services frontaliers du Canada| Gouvernement du Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 ATS : 866-335-3237

From: Andersen, CatherineD
Sent: November 3, 2017 3:22 PM
To: Armstrong, Colin <Colin.Armstrong@cbsa-asfc.gc.ca>
Subject: RE: Holiday Shift - Leave

Colin

I am reviewing the leave issue again which is contributing to the current delay of the guidelines.
We will get directions out asap.

Catherine

Catherine D Andersen
Tel: 613-946-4288

From: Armstrong, Colin
Sent: November 3, 2017 1:21 PM
To: Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>
Subject: RE: Holiday Shift - Leave

Hi...just wondering when you think you might be able to provide some info on this one. Mgmt has been asking.

Thanks

Colin Armstrong
Senior HR Consultant, Labour Relations
Canada Border Services Agency| Government of Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 TTY : 866-335-3237

Colin Armstrong
Consultant principal en HR, relations de travail
Agence des services frontaliers du Canada| Gouvernement du Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 ATS : 866-335-3237

From: Andersen, CatherineD
Sent: November 1, 2017 9:23 AM
To: Armstrong, Colin <Colin.Armstrong@cbsa-asfc.gc.ca>
Subject: RE: Holiday Shift - Leave

Hi Colin

Give me a little time this morning. I would prefer to provide part of the drafted guidelines.

Catherine

Catherine D Andersen
Tel: 613-946-4288

From: Armstrong, Colin
Sent: November 1, 2017 8:22 AM
To: Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>
Subject: RE: Holiday Shift - Leave

Hi Catherine,

Please see what I have drafted below to send to the Mgr...thought it might be easier for you to comment on what I have written than for you to draft a response...

If an employee is scheduled to work on a holiday, **reports to work** and then decides to take some leave they would be required to account / submit a leave request for the hours of leave....*regardless of the length of their shift*...i.e. 7.5hr or 10.5hrs. If an employee is scheduled to work on a holiday these hours form part of their total amount of (work) hours required over the course of the entire schedule...i.e.300hrs. The holiday is simply a regular work day, for the employee, which just happens to fall on a holiday. They are compensated at a premium rate (1.5) for the hours they work because it is a holiday.

If an employee is scheduled to work the holiday and decides **in advance**, of the holiday, that they would like to take some leave on the holiday they can ask to be H'ed for their entire shift or (presently) part of their shift. If H'ed there is no leave request required by Mgmt. Please note that HQ is presently looking at the "partial" H'ing...no word yet.

If the employee requests leave **in advance of a posted schedule**, they would be required to submit an actual leave request...i.e. vacation. When the schedule is posted and the employee discovers that they were/would have been scheduled to work the holiday they can ask their manager if they could be H'ed and withdraw their approved leave. This, however, is totally up to the manager's discretion...i.e. manager may have planned their day's schedule with approved leave requests in mind.

I checked with the LR Advisor for NLNSD and also had a chance to speak briefly with Dominic. They (NLNSD) are following the above process.

FYI - Michel's original question was about an employee who is scheduled to work the holiday and, **while at work on that day**, decide they want to take some leave. This scenario falls into what HQ has provided and the information in the first paragraph...employee must account for their (leave) time accordingly (vacation, FR, etc).

Your example below is accurate....7.5hrs regular pay (which everyone gets), OT rate for hours worked and leave for hours not worked (i.e. sick / vacation). Please keep in mind that there is a difference for those who are schedule to work a holiday and those who are called in on OT. Those who are called-in are working extra hours. The hours worked, for those scheduled, are simply **regular work hours** paid at the premium.

The Moore decision basically says that if you "H" an employee they will no longer be required to account for any hours above the 7.5. They are now "H'ed" for the entire shift...no time balance or leave required.

Does this make more sense?

Colin Armstrong
Senior HR Consultant, Labour Relations
Canada Border Services Agency| Government of Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 TTY : 866-335-3237

Colin Armstrong
Consultant principal en HR, relations de travail
Agence des services frontaliers du Canada| Gouvernement du Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 ATS : 866-335-3237

From: Kennedy, Gina
Sent: October 30, 2017 11:27 AM
To: Armstrong, Colin <Colin.Armstrong@cbsa-asfc.gc.ca>
Subject: RE: Holiday Shift - Leave

Can you please ask about the employee that is scheduled to work the 7.5 hour holiday?

Colin – the example below seems contrary to the Moore grievance agreement... if an employee requested leave in advance and it was approved - they would request 7.5 holiday and 2 hours of other leave as far as I know.

As the employer – I would assume the ee would get paid the holiday 7.5 hours

OT for the hours worked

Sick leave for the 2 hours scheduled and not

worked.

So I am not agreeing with HQ. --- you may want to ask some others in the region as it has been awhile since I have been involved with schedules.

Director NWNB District, Operations Branch
Canada Border Service Agency / Government of Canada
Gina.Kennedy@cbsa-asfc.gc.ca / Tel: 506-324-8663 / TTY: 866-335-3237

Directrice pour le district du NONB, Direction générale des opérations
Agence des services frontaliers du Canada / Gouvernement du Canada
Gina.Kennedy@cbsa-asfc.gc.ca / Tél. : 506-324-8663 / ATS: 866-335-3237

From: Armstrong, Colin
Sent: October 30, 2017 9:46 AM
To: Kennedy, Gina <Gina.Kennedy@cbsa-asfc.gc.ca>
Subject: Holiday Shift - Leave

Hi Gina,

I spoke to HQ and they provided the following chart...explaining how leave taken on a holiday, by a VSSA worker, is to be treated.

Based on the information provided it appears that leave taken part way through a "regularly" scheduled holiday shift must be accounted for accordingly. The key is that the shift is a scheduled shift and not an OT shift...i.e. employee called in. If the employee was not scheduled to work but called in on OT they could simply leave early if approved...paid only for the hours worked. However, when the shift is a regular shift....that happens to fall on a holiday....all leave provisions would apply. Although the employee is paid at a premium (OT) rate for the shift it would not be treated like a regular "OT" shift.

Does this clarify the issue?

I wanted to run this by you first before I sent a response to Michel Picard.

Thanks

Colin Armstrong
Senior HR Consultant, Labour Relations
Canada Border Services Agency | Government of Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 TTY : 866-335-3237

Colin Armstrong
Consultant principal en HR, relations de travail
Agence des services frontaliers du Canada | Gouvernement du Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 ATS : 866-335-3237

PARTIALLY WORKED DPH

Based on operational requirements, when management determines that an employee must work a DPH he or she was scheduled to work, this **DPH cannot be H'd**. The day must be considered a workday and must be compensated in accordance with the provisions of Article 30, *Designated Paid Holidays*, of the FB collective agreement.

As a result, if an employee reports to work on a DPH and must leave after working a few hours, the employee must submit a leave request in accordance with the provisions of the FB collective agreement that govern that type of leave. The requested leave will be granted in accordance with the respective provisions.

EXAMPLE :

FB employee on a 10-hour VSSA is scheduled to work from 8 a.m. to 6 p.m. on a DPH. He or she reports to work and, at 1 p.m., requests and is granted sick leave for the rest of the day	
Compensation pursuant to 25.28e)i) (i.e. the value of a DPH for VSSA workers)	7.5 hours @ 1.0X or 7.5 hours of leave in lieu
Compensation pursuant to 25.28e)ii) (i.e. hours worked on a DPH)	= 4 hours @ 1.5X 6 hours @ 1.0
Sick leave	Assuming the employee has the credits, he or she must take 6 hours of sick leave.
Total Value	13.5 hours @ 1.0X

Andersen, CatherineD

From: Andersen, CatherineD
Sent: November 7, 2017 01:16 PM
To: Cardinal, Jennifer
Cc: CBSA-ASFC_LRCD_Interpretation_DRTR; Carpinteiro, Lisa
Subject: RE: H'ing guide / Guide sur H'Chômé

There is intention to finalize and it is back on the front burner again.
Thanks, Jennifer.

Catherine

Catherine D Andersen
Tel: 613-946-4288

From: Cardinal, Jennifer
Sent: November 7, 2017 11:27 AM
To: Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>
Cc: CBSA-ASFC_LRCD_Interpretation_DRTR <LRCD_Interpretation_DRTR@cbsa-asfc.gc.ca>; Carpinteiro, Lisa <Lisa.Carpinteiro@cbsa-asfc.gc.ca>
Subject: RE: H'ing guide / Guide sur H'Chômé

Hi Catherine,

I am following up on my earlier e-mail regarding the status of the attached H'ing guide. Regional management is requesting written communication in regards to the use of code 1130 as well as how an employee accounts for paid leave on a holiday that he or she is scheduled to work. Do you know if there is any intention to finalize and approve the distribution of the H'ing guide?

Thank you,
Jennifer Cardinal
Manager Labour Relations, Corporate and Program Services Division
Canada Border Services Agency / Government of Canada
Jennifer.Cardinal@cbsa.gc.ca / Tel : 613-991-5067 / TTY : 866-335-3237

Gestionnaire des relations de travail, Division des services organisationnels et programmatiques
Agence des services frontaliers du Canada / Gouvernement du Canada
Jennifer.Cardinal@cbsa.gc.ca / Tél. : 613-991-5067 / ATS : 866-335-3237

From: Andersen, CatherineD
Sent: May 18, 2017 3:05 PM
To: Cardinal, Jennifer <Jennifer.Cardinal@cbsa-asfc.gc.ca>
Cc: CBSA-ASFC_LRCD_Interpretation_DRTR <LRCD_Interpretation_DRTR@cbsa-asfc.gc.ca>
Subject: RE: H'ing guide / Guide sur H'Chômé

Hi Jennifer

I apologize for the late reply.

Unfortunately, there is no approved H'ing guide at this time. In response to the H'ing without the required 7 days notice question:

It is clear from the jurisprudence, H'ing someone on a holiday is considered a shift change. Please refer to **the CSC matter (2012 PSLRB 57)**, in which the **adjudicator states in paragraph 32** 'When the employer books off an employee on a DPH, it does not change the pre-established schedule as per article 34 or Appendix "K" of the collective agreement. Rather, it changes that employee's shift. **To make such a change, the employer must give some minimal notice.**

On that point, these grievances differ from *Union of Canadian Correctional Officers - Syndicat des agents correctionnels du Canada - CSN*, which dealt with schedule changes."

If the change occurred before the 7 days, the employee would have received their normal rate of pay for the whole shift – 10.5 hours – no holiday pay but also wouldn't have to make up any time, in keeping with Moore.

To assist in the calculation, this is what was received from TB for a 10-hour shift:

'The employee's regular shift is paid as per 25.21 a) because of the short notice shift change. Therefore, you simply need to add the value of the DPH to the compensation under 25.21 a) : 7.5 hrs for the DPH + 7.5 hours at T1/2 and 2.5 hrs at 2T = 23.75 h"

Hope this helps. Please let me know if you require anything further.

Regards,

Catherine

Catherine D. Andersen

Senior Labour Relations Officer, Human Resources Branch
Canada Border Services Agency / Government of Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

Counsellère principale en relations de travail / Direction générale des ressources humaines
Agence des services frontaliers du Canada / Gouvernement du Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

From: Cardinal, Jennifer

Sent: April 19, 2017 9:19 AM

To: CBSA-ASFC_LRCD_ Interpretation_DRTR <LRCD_ Interpretation_DRTR@cbsa-asfc.gc.ca>

Subject: FW: H'ing guide / Guide sur H'Chômé

Good morning,

I am following-up in regards to the status of the attached H'ing Guide, specifically whether or not the guide has been finalized and approved for distribution to my regional management teams.

In addition, I'd like clarification regarding the impacts of providing less than 7-days of notice for an employer directed holiday off. Would the short-shift change still apply given that the employee now receives compensation for the entire shift and in essence of this being h'd no longer results in a change in schedule.

Thank you,
Jennifer Cardinal
Manager Labour Relations, Corporate and Program Services Division
Canada Border Services Agency / Government of Canada
Jennifer.Cardinal@cbsa.gc.ca / Tel : 613-991-5067 / TTY : 866-335-3237

Gestionnaire des relations de travail, Division des services organisationnels et programmatiques
Agence des services frontaliers du Canada / Gouvernement du Canada
Jennifer.Cardinal@cbsa.gc.ca / Tél. : 613-991-5067 / ATS : 866-335-3237

From: Cardinal, Jennifer
Sent: January 24, 2017 10:12 AM
To: Crain, Andrew <Andrew.Crain@cbsa-asfc.gc.ca>
Cc: Hisko, Garrett <Garrett.Hisko@cbsa-asfc.gc.ca>; Anderson, Adele <Adele.Anderson@cbsa-asfc.gc.ca>
Subject: FW: H'ing guide / Guide sur H'Chômé

Hi Andrew,

Can you confirm whether or not the attached guideline has been finalized and is approved for dissemination within our management teams. We continue to receive questions regarding the handling of a DPH post-Moore, specifically whether or not all requests for vacation on a DPH must be considered an H'd day. I would like to share the guide or at least the following wording with our management teams:

I will await your response before sharing the information.

Jennifer Cardinal
Manager Labour Relations, Corporate and Program Services Division
Disability and Accommodations Case Coordinator, Corporate and Program Services Division
Canada Border Services Agency / Government of Canada
Jennifer.Cardinal@cbsa.gc.ca / Tel : 613-991-5067 / TTY : 866-335-3237

Gestionnaire des relations de travail, Division des services organisationnels et programmatiques

Coordonnatrice des cas d'invalidité et des mesures d'adaptation, Division des services organisationnels et programmatiques
Agence des services frontaliers du Canada / Gouvernement du Canada
Jennifer.Cardinal@cbsa.gc.ca / Tél. : 613-991-5067 / ATS : 866-335-3237

From: Crain, Andrew
Sent: November 1, 2016 2:42 PM
To: Cardinal, Jennifer
Cc: Campbell, Al
Subject: FW: H'ing guide / Guide sur H'Chômé

Jennifer,

It's slightly difficult to answer your questions because the applicable section depends on the circumstances, not necessarily the type of leave used. The first question to ask is can we H the employee or not. Furthermore, these are guidelines, and it's difficult to have specific examples for every type of situation. With that said...

I hope this clarifies things.

Cheers,
Andrew

From: Cardinal, Jennifer
Sent: October 31, 2016 3:27 PM
To: Crain, Andrew
Cc: Carpinteiro, Lisa
Subject: RE: H'ing guide / Guide sur H'Chômé

Hi Andrew,

Firstly let me begin by stating that overall we are very happy with the guide and believe it will be very useful to management. With that being said we have a couple of comments:

Please advise if you wish to discuss further.

Thank you,

Jennifer Cardinal

Manager Labour Relations, Corporate and Program Services Division

Disability and Accommodations Case Coordinator, Corporate and Program Services Division

Canada Border Services Agency / Government of Canada

Jennifer.Cardinal@cbsa.gc.ca / Tel : 613-991-5067 / TTY : 866-335-3237

Gestionnaire des relations de travail, Division des services organisationnels et programmatiques

Coordonnatrice des cas d'invalidité et des mesures d'adaptation, Division des services organisationnels et programmatiques

Agence des services frontaliers du Canada / Gouvernement du Canada

Jennifer.Cardinal@cbsa.gc.ca / Tél. : 613-991-5067 / ATS : 866-335-3237

From: Crain, Andrew

Sent: October 27, 2016 8:48 AM

To: MacPhee, Jennifer; Bazinet, Annie-Sophie; Cardinal, Jennifer; Minniti-Rocco, Marisa; Lambert, Dawn; Smith, Janis; Oslund, Jodi; Breau, Nadine; Lake, Susan; Laviolette, Jonathan; Laing, Erika

Cc: Campbell, Al; Wright, Cassandra; Carpinteiro, Lisa; Allain Osborne, Claudelle; McWilliam, Tracy; Mlinarevic, Kathy; Forte, Anne; Smith, Janand; Underwood, Marlene

Subject: H'ing guide / Guide sur H'Chôme

Good Morning

Please provide us with your region's comments on the attached by end of day on October 31st.

Bon matin,

Veuillez svp nous faire parvenir les commentaires de votre région sur la pièce jointe au plus tard le 31 octobre.

Thank you / Merci

Andrew Crain

Senior Labour Relations Advisor / Conseiller principal en relations de travail

Canada Border Services Agency / Agence des services frontaliers du Canada

Ottawa ON

Office: (613) 948-9859 (New/Nouveau)

Andersen, CatherineD

From: Andersen, CatherineD
Sent: September 26, 2017 02:13 PM
To: Bergeron, Anne Renée
Cc: Mullin-Baker, Patricia; Gualtieri, Francesca
Subject: RE: H'ing on stat Best practices

Hi Anne-Renee

Currently, we do not have an agreement on the H'ing guidelines as of yet.

I can say for certain Management does have the right to "H" someone off on their DPH, however, this should be done prior to the 7-day window as it would be considered a short-shift change (FB article 25.21). The Moore MOU outlines that for FBs, the H day will be the length of their (VSSA) shift, not just 7.5 hours. It is unknown at this time if the next FB collective agreement will be more specific or provide anything different.

It should also be noted that when H'ing employees, consideration should be given to ensuring that H'ing is done on an **equitable** basis: i.e. don't H the same people for all holidays, rotate for fairness. Unless, of course, a full range of duties cannot be performed by some – an example of this would be in a commercial office where someone cannot work the public counter so it would be better if the BSO who can work all aspects (counter and outside) works the holiday because there will be less people performing the functions.

Hope this helps in the interim.

Catherine

Catherine D Andersen
Tel: 613-946-4288

From: Bergeron, Anne Renée
Sent: September 22, 2017 3:12 PM
To: Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>
Subject: TR: H'ing on stat Best practices

Hi Catherine,

Would you be able to tell me where we are at for the national guidelines on H'ing? We received a question from the NBOC and before replying to them, we want to make sure we are align.

Anne-Renée Bergeron

Manager, Labour Relations | Gestionnaire, Relations de travail
Labour Relations and Compensation Directorate | Direction des relations de travail et rémunération
Canadian Border Services Agency | Agence des services frontaliers du Canada
100 Metcalfe St., 18th floor, Ottawa, ON, K1A 0L8
Tel: 613-957-3430 | Fax: 613-948-9838
AnneRenee.Bergeron@cbsa-asfc.gc.ca
Government of Canada | Gouvernement du Canada

De : Huberdeau, Yoann
Envoyé : September 22, 2017 2:12 PM
À : Bergeron, Anne Renée <AnneRenée.Bergeron@cbsa-asfc.gc.ca>
Objet : FW: H'ing on stat Best practices

Can we discuss. Aslhey mentioned that the inquiries need to come from you to Corporate...

From: Breton, Sandra
Sent: September 22, 2017 2:10 PM
To: Huberdeau, Yoann <Yoann.Huberdeau@cbsa-asfc.gc.ca>
Subject: RE: H'ing on stat Best practices

I have been asked to draft a message for our supervisors on how we plan to proceed for the BOC and WRC. Sabrina has advised me that at the Extended divisional meeting the DG has tasked this to begin. He wanted it for thanksgiving but the managers pushed back as that schedule has already been published.

We have a tentative new start date to start forced H-ing for remembrance day stat. We only have about 2-3 weeks to iron out how it will be determined before we have to publish and release final version of the next schedule that begins October 30th. Date for release is due by: Sunday October 15th. Other than determining H'ing, I believe the schedules are prepped and ready to be released sooner.

Any insight would be greatly appreciated. Is there any decisions are factors that have already been determined that can be shared before final policy is completed?

I have some feedback on how other regions are doing it, but if national standards are due out then rather than changing again we'd like to be inline.

Sandra Breton

A/Senior Program Advisor, Operations Branch
Canada Border Services Agency / Government of Canada
Sandra.Breton@cbsa-asfc.gc.ca / Tel. 613-941-8945 / TTY: 866-335-3237

Conseillère principale de programmes int., Direction générale des opérations
Agence des services frontaliers du Canada / Gouvernement du Canada
Sandra.Breton@cbsa-asfc.gc.ca / Tél. : 613-941-8945 / ATS: 866-335-3237

From: Huberdeau, Yoann
Sent: September 22, 2017 1:58 PM
To: Breton, Sandra <Sandra.Breton@cbsa-asfc.gc.ca>
Subject: RE: H'ing on stat Best practices

Sandra,

Indeed, our policy unit are currently working on a National guidelines and standards for H'ing. I suggest that you wait that the guidelines are release. Do you have a specific situation that you need guidance?

Yoann

From: Breton, Sandra
Sent: September 22, 2017 10:58 AM
To: Huberdeau, Yoann <Yoann.Huberdeau@cbsa-asfc.gc.ca>
Cc: CBSA-ASFC_LROPS_HQ-RTOPS_AC <CBSA-ASFC_LROPS_HQ-RTOPS_AC@cbsa-asfc.gc.ca>
Subject: H'ing on stat Best practices
Importance: High

Sorry I meant to CC in the inbox in the event someone else can answer the question, in the event Yoann is out of the office.

Sandra

From: Breton, Sandra
Sent: September 22, 2017 10:56 AM
To: Huberdeau, Yoann <>
Subject: Best practices
Importance: High

Good Morning Yoann,

I am one of the senior program advisors for the BOC working under Sabrina Petrow. I have been tasked by both Sabrina and Jasmine Hayes to prepare some options and guidelines for our supervisors on H'ing of employees on a stat holiday, as our directorate will be pushing forward with this.

Jasmine had been told by Marie-France previously that National guidelines and standards for H'ing was being drafted. She has not yet received this. Do you know if such a document exists. I've been so consulting with my CMA colleagues responsible for scheduling in the regions to get their best practices, but I want to refer to whatever National Guidelines that exist if possible.

If formal guidelines and standards don't yet exist can you please provide me with any recommendations on moving forward you can. I have been informed by a colleague in Toronto that any mandatory H'ing must be put out with the schedule and employees are to be pre-scheduled to be H'd.

Since results of grievances such as this tend to become precedents that are set, I require any information or guidelines that may have resulted from this grievance as well.

Please advise at your earliest convenience. I will be sitting down with Sabrina and Jasmine on Monday to give them an update on the instructions to the supervisors and messaging to staff.

Thanks

Sandra Breton

A/Senior Program Advisor, Operations Branch
Canada Border Services Agency / Government of Canada
Sandra.Breton@cbsa-asfc.gc.ca / Tel. 613-941-8945 / TTY: 866-335-3237

Conseillère principale de programmes int., Direction générale des opérations
Agence des services frontaliers du Canada / Gouvernement du Canada

Sandra.Breton@cbsa-asfc.gc.ca / Tél. : 613-941-8945 / ATS: 866-335-3237

Andersen, CatherineD

From: Andersen, CatherineD
Sent: October 18, 2017 01:41 PM
To: Minniti-Rocco, Marisa
Subject: RE: article ??

Hello

FAA sections 11 and 12, in addition the CA Article 6 Management has the right to manage its operations. Furthermore, there are many decisions that provide and support management's right to H employees. Hope this helps.

Catherine

Catherine D Andersen
Tel: 613-946-4288

From: Minniti-Rocco, Marisa
Sent: October 18, 2017 1:29 PM
To: Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>
Subject: article ??
Importance: High

Catherine – despite looking for this info – I cannot find it.

Which article of the Collective Agreement expressly gives management the right to H employees?

Is it more so, that there's not a contractual right and that it's a "penalty clause"?

Can you assist? Senior Mgmt is asking for this info here in the Region.

Marisa

Andersen, CatherineD

From: Andersen, CatherineD
Sent: October 25, 2017 02:52 PM
To: Stebelski, Joshua
Cc: CBSA-ASFC_LRCD_Interpretation_DRTR; Gualtieri, Francesca; Mullin-Baker, Patricia
Subject: RE: H'ing and Article 25.21

Good morning, Joshua

LR Programs responses to your questions are **in green** below:

- An employee received less than 7 days' notice that they will be H'd (and entitled to short shift change). On their next shift that they were entitled to the provisions of Article 25.21, they phoned in sick. Would they be entitled to the short shift change for that shift (essentially, not receiving it due to calling in sick) or the first shift worked?
 - LR Programs Response: **Article 25.21** reads:
 - a) An employee who is required to change his or her scheduled shift without receiving at least seven (7) days' notice in advance of the starting time of such change in his or her scheduled shift **shall be paid for the first (1st) shift worked** on the revised schedule at the rate of time and one-half (1 1/2) for the first (1st) seven decimal five (7.5) hours and double (2) time thereafter. Subsequent shifts worked on the revised schedule shall be paid for at straight-time rate, subject to Article 28, Overtime.
 - b) Every reasonable effort will be made by the Employer to ensure that the employee returns to his or her original shift schedule and returns to his or her originally scheduled days of rest for the duration of the master shift schedule without penalty to the Employer.
 - Therefore, the first shift worked, and not the sick day, should be the shift for which the employee receives the compensation provided for in (a).
- Another employee was verbally advised they were being H'd on Thanksgiving Holiday on Tuesday October 3rd at approximately noon. Their moved DPH was on Tuesday October 10th at 8 am – 8 pm. The Chief advised that they sent an email advising the employee they were H'd the following day (Wednesday October 4th) as written notification for being H'd. Would the employee still be entitled to the provisions of 25.21?
 - LR Programs Response: **In addition to Article 25.21 (above)** requiring 7 days-notice of a change to a scheduled shift, **Article 25.07** reads *"Employees shall be informed by written notice of their scheduled hours of work. Any changes to the scheduled hours shall be by written notice to the employee(s) concerned."*
 - Given the above, the Employer must advise the employee of any shift change in writing, and would be entitled to the provisions of 25.21 if the employee was not given 7days notice.
- Given the scenario above, would verbal notice of being H'd (e.g. calling an employee at home to advise them of such) be sufficient to be considered "notice" or would it have to be by written notice, as per 25.07 of the FB Collective?
 - LR Programs Response: It is clear that seven days written notice is required for shift changes or the employee is compensated as per 25.21. However, for the scenario provided in the second bullet, if the Employer contacted the employee to advise of the shift change and followed-up with an email and/or shift change notification (written notice) the next day, the notification should refer to the telephone call in which the employee was (personally) advised of the change. The onus is always on the Employer to substantiate that the provisions provided for in the collective agreement were followed.

Please advise if further clarification is required.

Catherine

Catherine D Andersen

Tel: 613-946-4288

From: Stebelski, Joshua

Sent: October 17, 2017 10:40 AM

To: Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>

Subject: H'ing and Article 25.21

Hi Catherine,

I have a few questions for you in regard to H'ing and short shift change (provision 25.21 of the FB Collective Agreement). I will call you in a bit on these questions but wanted to put them in writing because I believe it will be easier to understand that way. Would like to see if you concur.

- o An employee received less than 7 days' notice that they will be H'd (and entitled to short shift change). On their next shift that they were entitled to the provisions of Article 25.21, they phoned in sick. Would they be entitled to the short shift change for that shift (essentially, not receiving it due to calling in sick) or the first shift worked? Regional LR believes it is the first shift worked as outlined below.
- o Another employee was verbally advised they were being H'd on Thanksgiving Holiday on Tuesday October 3rd at approximately noon. Their moved DPH was on Tuesday October 10th at 8 am – 8 pm. The Chief advised that they sent an email advising the employee they were H'd the following day (Wednesday October 4th) as written notification for being H'd. Would the employee still be entitled to the provisions of 25.21? Regional LR believes that the EE did not receive "seven days' notice in advance of the starting time of such change in his or her scheduled shift" and would be entitled to the provisions outlined in 25.21.
- o Given the scenario above, would verbal notice of being H'd (e.g. calling an employee at home to advise them of such) be sufficient to be considered "notice" or would it have to be by written notice, as per 25.07 of the FB Collective? Regional LR believes verbal notice is sufficient if followed up with a written notice as well.

Thanks in advance. I will call you sometime after lunch today to discuss (probably around 2).

Day Work

25.06 Except as provided for in clauses 25.09, 25.10 and 25.11:

- a. the normal workweek shall be thirty-seven decimal five (37.5) hours from Monday to Friday inclusive; and
- b. the normal workday shall be seven decimal five (7.5) consecutive hours, exclusive of a lunch period, between the hours of 7 a.m. and 6 p.m.

25.07 Employees shall be informed by written notice of their scheduled hours of work. Any changes to the scheduled hours shall be by written notice to the employee(s) concerned.

25.21

- a. An employee who is required to change his or her scheduled shift without receiving at least seven (7) days' notice in advance of the starting time of such change in his or her scheduled shift shall be paid for the first (1st) shift worked on the revised schedule at the rate of time and one-half (1 1/2) for the first

(1st) seven decimal five (7.5) hours and double (2) time thereafter. Subsequent shifts worked on the revised schedule shall be paid for at straight-time rate, subject to Article 28, Overtime.

Josh Stebelski

Human Resources, Labour Relations Advisor
Southern Ontario Region, Niagara Falls, ON
Canada Border Services Agency / Government of Canada
Joshua.Stebelski@cbsa-asfc.gc.ca / Tel: 905-354-2287

Ressources humaines, Conseiller en relations de travail région
Sud de l'Ontario, de Niagara Falls, ON
Agence des services frontaliers du Canada / Gouvernement du Canada
Joshua.Stebelski@cbsa-asfc.gc.ca / Tél: 905-354-2287

Andersen, CatherineD

From: Andersen, CatherineD
Sent: August 15, 2017 02:00 PM
To: Desmarais, Robin
Cc: Lefebvre, Josee
Subject: FW: SOR Interpretation - Minutes Grievance

Hey Robin

Neither of these scenarios were the intent of Moore. The Moore settlement is to compensate employees who are "H'd" by management because their services are not required because of operational requirements and the agreement provides what the employer believes as appropriate compensation for doing so.

The intent of Moore was not to be employee-driven rather to benefit the employer. If there is no reason to H someone, then 1130 should not be given to an employee requesting leave for the holiday. H'ing should only be considered if the employer does not require all of the employees to report to work on the holiday.

30.07

- a) When an employee works on a holiday, he or she shall be paid time and one-half (1 1/2) for all hours worked up to seven decimal five (7.5) hours and double (2) time thereafter, in addition to the pay that the employee would have been granted had he or she not worked on the holiday;
or
- b) upon request and with the approval of the Employer, the employee may be granted:
 - i. a day of leave with pay (straight-time rate of pay) at a later date in lieu of the holiday;
and
 - ii. pay at one and one-half (1 1/2) times the straight-time rate of pay for all hours worked up to seven decimal five (7.5) hours;
and
 - iii. pay at two (2) times the straight-time rate of pay for all hours worked by him or her on the holiday in excess of seven decimal five (7.5) hours.
- c) Notwithstanding paragraphs (a) and (b), when an employee works on a holiday contiguous to a day of rest on which he or she also worked and received overtime in accordance with paragraph 28.05(b), he or she shall be paid, in addition to the pay that he or she would have been granted had he or she not worked on the holiday, two (2) times his or her hourly rate of pay for all time worked.
- d) Subject to operational requirements and adequate advance notice, the Employer shall grant lieu days at such times as the employee may request.
 - i. When, in a fiscal year, an employee has not been granted all of his or her lieu days as requested by him or her, at the employee's request, such lieu days shall be carried over for one (1) year.

- ii. In the absence of such request, unused lieu days shall be paid off at the employee's straight-time rate of pay in effect when the lieu day was earned.

Please let me know if you require anything further. I apologize for the delay at our end.

Catherine

Catherine D Andersen
Tel: 613-946-4288

From: Desmarais, Robin
Sent: August 15, 2017 8:37 AM
To: Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>
Subject: FW: Minutes Grievance

Hey Catherine,

By any chance were you able to get information on this at all?

Thanks,
Robin

From: Desmarais, Robin
Sent: July 21, 2017 8:46 AM
To: Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>
Subject: RE: Minutes Grievance

Hey Catherine,

Ok so for question 1: He is saying that if an employee requests and is approved leave on a Holiday the whole shift is accounted for using 1130 (rather than 7.5 hours holiday and the remaining hours using vacation leave).

Question 2: Yes he wants Lieu time for the whole shift (so for example 11.5 hours lieu).

Let me know if you need any additional information.

Thanks,
Robin

From: Andersen, CatherineD
Sent: July 21, 2017 7:45 AM
To: Desmarais, Robin <Robin.Desmarais@cbsa-asfc.gc.ca>
Cc: Minniti-Rocco, Marisa <Marisa.Minniti@cbsa-asfc.gc.ca>; Carbonneau, Melanie <Melanie.Carbonneau@cbsa-asfc.gc.ca>
Subject: RE: Minutes Grievance

Hi Robin
I don't quite understand the following two points:

- Basis of claim is the current practice of granting 11.5 hours of leave (1130) for pre-approved discretionary leave. What Pre-approved discretionary leave is he speaking about?
- Employee requests to be granted 11.5 hours of Lieu time for a worked holiday plus cash for remaining hours earned. Instead of a 7.5 hour lieu day plus cash?

This will need to be discussed with the Redress team before a response can be given.

Catherine

Catherine D Andersen
Tel: 613-946-4288

From: Desmarais, Robin
Sent: July 20, 2017 9:12 AM
To: Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>
Cc: Minniti-Rocco, Marisa <Marisa.Minniti@cbsa-asfc.gc.ca>
Subject: FW: Minutes Grievance

Hey Catherine,

FYI we have received 3 grievances of this nature in the Region. At the time of presentation it was not understood that the grievor is making a connection to Moore.

In short he is arguing that a DPH should represent the full hours of a scheduled shift and therefore he should be permitted to earn Lieu for the full shift. The argument is that given that, based on Moore, when someone takes leave or is H'd on a DPH they are to use 1130 for the full shift

So a couple of questions:

1. Should these grievances be accelerated to 4th? It is my understanding that grievances pertaining to Moore should be heard at final. I understand that this one doesn't pertain specifically to the terms of the Moore agreement – but rather it references Moore in support of their argument. Wanted to be sure that we should be proceeding in the Region?
2. Are you aware if we have received any other grievances of this nature? If so, do we have language that can be used?
3. 25.28 of the FB Collective Agreement is clear that for VSSA workers a DPH shall account for 7.5 hours, however how to we distinguish this from the fact that if leave is taken on a DPH code 1130 is use for the whole shift?

If we do respond in the Region and there is no language, I will likely ask that you guys have a look to make sure that you are ok with the response.

I appreciate any information you can offer.

Thanks,
Robin

From: Ferrusi, Tony
Sent: July 19, 2017 8:10 PM

To: Desmarais, Robin <Robin.Desmarais@cbsa-asfc.gc.ca>
Subject: FW: Minutes Grievance

Hello Robin.. Please give me a call when you get a second tomorrow to discuss this grievance.

Thanks

Tony Ferrusi

Superintendent, Operations Branch
Canada Border Services Agency / Government of Canada
Tony.Ferrusi@cbsa-asfc.gc.ca / Tel: 905-354-6754 / TTY: 866-335-3237

Surintendant, Direction générale des opérations
Agence des services frontaliers du Canada / Gouvernement du Canada
Tony.Ferrusi@cbsa-asfc.gc.ca / Tél. : 905-354-6754 / ATS : 866-335-3237

From: Ferrusi, Tony
Sent: July 8, 2017 6:28 PM
To: Scott, Sean <Sean.Scott@cbsa-asfc.gc.ca>; Turner, Scott <Scott.Turner@cbsa-asfc.gc.ca>; Prosia, Michael <Michael.Prosia@cbsa-asfc.gc.ca>
Subject: Minutes Grievance

Please find attached the minutes from the grievance meeting with

Thanks

Tony Ferrusi

Superintendent, Operations Branch
Canada Border Services Agency / Government of Canada
Tony.Ferrusi@cbsa-asfc.gc.ca / Tel: 905-354-6754 / TTY: 866-335-3237

Surintendant, Direction générale des opérations
Agence des services frontaliers du Canada / Gouvernement du Canada
Tony.Ferrusi@cbsa-asfc.gc.ca / Tél. : 905-354-6754 / ATS : 866-335-3237

Andersen, Catherined

From: CBSA-ASFC_LRCD_Interpretation_DRTR
Sent: October 5, 2017 11:47 AM
To: Stebelski, Joshua
Cc: CBSA-ASFC_LRCD_Interpretation_DRTR; Mullin-Baker, Patricia; Gualtieri, Francesca
Subject: SOR Interpretation Request - H'ing and Article 30.05 FB CA
Attachments: Interpretation Request

Good morning, Joshua

This is in response to your interpretation request regarding H'ing and overtime (attached).

Please let me know if you require anything further.

Catherine

Catherine D Andersen
Tel: 613-946-4288

From: Stebelski, Joshua
Sent: October 3, 2017 4:08 PM
To: CBSA-ASFC_LRCD_ Interpretation_DRTR <LRCD_ Interpretation_DRTR@cbsa-asfc.gc.ca>
Subject: Interpretation Request

Hi Catherine,

Sending an interpretation request regarding H'ing over the Christmas and New Year Holiday. The first two questions were posed by local Management, while the last two Marisa and I came up with in discussion (uncertain as to any previous guidance received in this regard). Please let me know if anything further is necessary.

Josh Stebelski

Human Resources, Labour Relations Advisor
Southern Ontario Region, Niagara Falls, ON
Canada Border Services Agency / Government of Canada
Joshua.Stebelski@cbsa-asfc.gc.ca / Tel: 905-354-2287

Ressources humaines, Conseiller en relations de travail région
Sud de l'Ontario , de Niagara Falls, ON
Agence des services frontaliers du Canada / Gouvernement du Canada
Joshua.Stebelski@cbsa-asfc.gc.ca / Tél: 905-354-2287

Andersen, CatherineD

From: Andersen, CatherineD
Sent: May 18, 2017 01:41 PM
To: Armstrong, Colin
Cc: Brant, Kevin; Gualtieri, Francesca; Mullin-Baker, Patricia
Subject: Question - H'ing and short shift change.

Hi Colin,

Further to my previous email on this matter, to assist in the calculation, this is what was received from TB:

The employee's regular shift is paid as per 25.21 a) because of the short notice shift change. Therefore, you simply need to add the value of the DPH to the compensation under 25.21 a) : 7.5 hrs for the DPH + 7.5 hours at T1/2 and 2.5 hrs at 2T = 23.75 h

Hope this helps.

Regards,

Catherine

Catherine D. Andersen

Senior Labour Relations Officer, Human Resources Branch
Canada Border Services Agency / Government of Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

Counsellère principale en relations de travail / Direction générale des ressources humaines
Agence des services frontaliers du Canada / Gouvernement du Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

From: Andersen, CatherineD
Sent: May 18, 2017 1:28 PM
To: Armstrong, Colin <Colin.Armstrong@cbsa-asfc.gc.ca>
Cc: Brant, Kevin <Kevin.Brant@cbsa-asfc.gc.ca>; Gualtieri, Francesca <Francesca.Gualtieri@cbsa-asfc.gc.ca>; Mullin-Baker, Patricia <Patricia.Mullin-Baker@cbsa-asfc.gc.ca>
Subject: RE: Question

Hi Colin

It is clear from the jurisprudence, H'ing someone on a holiday is considered a shift change.

Please refer to the **CSC matter (2012 PSLRB 57)**, in which the **adjudicator states in paragraph 32** "When the employer books off an employee on a DPH, it does not change the pre-established schedule as per article 34 or Appendix "K" of the collective agreement. Rather, it changes that employee's shift. **To make such a change, the employer must give some minimal notice.** In the present grievances, the employer respected that notice period. On that point, these grievances differ from *Union of Canadian Correctional Officers - Syndicat des agents correctionnels du Canada - CSN*, which dealt with schedule changes."

Regards,

Catherine

Catherine D. Andersen

Senior Labour Relations Officer, Human Resources Branch
Canada Border Services Agency / Government of Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

Counsellère principale en relations de travail / Direction générale des ressources humaines
Agence des services frontaliers du Canada / Gouvernement du Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

From: Armstrong, Colin
Sent: May 18, 2017 10:59 AM
To: Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>
Subject: FW: Question

Hi,

Forgot to say they work 10.5 hr shifts.

Colin Armstrong
Senior HR Consultant, Labour Relations
Canada Border Services Agency | Government of Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 TTY : 866-335-3237

Colin Armstrong
Consultant principal en HR, relations de travail
Agence des services frontaliers du Canada | Gouvernement du Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 ATS : 866-335-3237

From: Armstrong, Colin
Sent: May 18, 2017 11:33 AM
To: Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>
Subject: RE: Question

These are VSSA workers who have been "H" on May 22nd with less than 7 days advance notice.

Colin Armstrong
Senior HR Consultant, Labour Relations
Canada Border Services Agency | Government of Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 TTY : 866-335-3237

Colin Armstrong
Consultant principal en HR, relations de travail

Agence des services frontaliers du Canada | Gouvernement du Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 ATS : 866-335-3237

From: Andersen, CatherineD
Sent: May 18, 2017 11:29 AM
To: Armstrong, Colin <Colin.Armstrong@cbsa-asfc.gc.ca>
Subject: RE: Question

What are the hours of the employees we are speaking about? Day workers, shift or VSSA workers?

Regards,

Catherine

Catherine D. Andersen

Senior Labour Relations Officer, Human Resources Branch
Canada Border Services Agency / Government of Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

Counseillère principale en relations de travail / Direction générale des ressources humaines
Agence des services frontaliers du Canada / Gouvernement du Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

From: Armstrong, Colin
Sent: May 18, 2017 10:27 AM
To: Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>
Cc: Brant, Kevin <Kevin.Brant@cbsa-asfc.gc.ca>
Subject: RE: Question

Thanks

Colin Armstrong
Senior HR Consultant, Labour Relations
Canada Border Services Agency | Government of Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 TTY : 866-335-3237

Colin Armstrong
Consultant principal en HR, relations de travail
Agence des services frontaliers du Canada | Gouvernement du Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 ATS : 866-335-3237

From: Andersen, CatherineD
Sent: May 18, 2017 10:51 AM

To: Armstrong, Colin <Colin.Armstrong@cbsa-asfc.gc.ca>
Cc: Brant, Kevin <Kevin.Brant@cbsa-asfc.gc.ca>
Subject: RE: Question

Hi Colin

Regards,

Catherine

Catherine D. Andersen

Senior Labour Relations Officer, Human Resources Branch
Canada Border Services Agency / Government of Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

Counsellère principale en relations de travail / Direction générale des ressources humaines
Agence des services frontaliers du Canada / Gouvernement du Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

From: Armstrong, Colin
Sent: May 18, 2017 9:39 AM
To: Andersen, CatherineD <Catherine.Andersen@cbsa-asfc.gc.ca>
Cc: Brant, Kevin <Kevin.Brant@cbsa-asfc.gc.ca>
Subject: RE: Question

Hi Catherine,

The consensus in this office is that if you "H" and employee with less than 7 days advance notice they would be entitled to the short shift change premium...in accordance with Article 25.21 of the FB Agreement. Our interpretation is....if you change the shift of an employee without a minimum of 7 days advance notice you will be required to pay them the premium rate for their first shift back in the office.

Managements interpretation is that this article only applies when you actually change their hours of work on the shift schedule.

Kevin provided the following information back in 2012...based on Clarkson.

As provided within Article 25.20 of the FB CA and the decision of Adjudicator Paquet in *Clarkson v. TBS* http://pslrb-crtfp.gc.ca/decisions/fulltext/2009-87_e.asp, management has a right to schedule employees hours of work and H'ing would constitute part of this. Adjudicator Paquet goes on to comment that "It is generally accepted that the purpose of such clauses pertaining to notice is to bring some stability to employees working on shifts."

Given the forgoing, employees are to be compensated under Art. 25.20 whenever a change (H'd < 7 days, un H'd < 7 days) is made to their schedule with less than seven days notice, unless that change occurs under Art. 25.21.

The Moore decision requires the Agency to reimburse employees, at the premium rate, for make-up hours worked. For example, if the shift was 10.5 hrs and the employee was "H'd" we are paying the premium rate for only the 3 hrs made-up...not the premium rate for their first shift back at work.

In the Clarkson decision the employee was paid the premium rate for only the 4 hrs they made up / worked as a result of being "H". The adjudicator stated the reason why the employee was entitled to be paid the premium rate, for the 4 hrs, was because the employee was not given the minimum of 7 days advance notice.

It appears that the Clarkson and the Moore decisions are focused on hours required to be made-up as a result of being "H". This is what Mgmt is hanging their hat on.

As discussed, management has "H" employees for the upcoming holiday, May 22nd, without providing 7 days advance notice.

Does this, in your opinion, constitute a short shift change?

Thank you

Colin Armstrong
Senior HR Consultant, Labour Relations
Canada Border Services Agency | Government of Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 TTY : 866-335-3237

Colin Armstrong
Consultant principal en HR, relations de travail
Agence des services frontaliers du Canada | Gouvernement du Canada
Colin.Armstrong@cbsa-asfc.gc.ca | Tel. 902-426-5438 ATS : 866-335-3237

From: Andersen, CatherineD
Sent: May 18, 2017 9:22 AM
To: Armstrong, Colin <Colin.Armstrong@cbsa-asfc.gc.ca>
Cc: Brant, Kevin <Kevin.Brant@cbsa-asfc.gc.ca>
Subject: Question

Hi Colin

We had sought an interpretation from TB regarding changing holidays without more than 7 days-notice and they didn't know how to answer. Go Figure.

Unfortunately, I have no definite response for you today. As it stands, applying both holiday pay and short shift change premiums would be incredibly costly.

Programs has to continue reviewing

Regards,

Catherine

Catherine D. Andersen

Senior Labour Relations Officer, Human Resources Branch

Canada Border Services Agency / Government of Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

Counseillère principale en relations de travail / Direction générale des ressources humaines
Agence des services frontaliers du Canada / Gouvernement du Canada
catherine.andersen@cbsa-asfc.gc.ca / Tel: 613-946-4288

Andersen, CatherineD

From: Crain, Andrew
Sent: February 24, 2017 01:30 PM
To: Andersen, CatherineD
Subject: FW: Guidance re: grievance related to Hing

From: Bergeron, Anne Renée
Sent: February 24, 2017 1:13 PM
To: Crain, Andrew <Andrew.Crain@cbsa-asfc.gc.ca>; Anderson, Adele <Adele.Anderson@cbsa-asfc.gc.ca>
Cc: Gualtieri, Francesca <Francesca.Gualtieri@cbsa-asfc.gc.ca>
Subject: RE: Guidance re: grievance related to Hing

Hello,

It is already
established that this allowance can be paid even if a single shift was changed, rather than having a "revised" schedule.

Thanks,

Anne-Renée Bergeron

Gestionnaire, Relations de travail | Manager, Labour Relations
Direction des relations de travail et rémunération | Labour Relations and Compensation Directorate
Agence des services frontaliers du Canada | Canadian Border Services Agency
100 Metcalfe St., 18th floor, Ottawa, ON
Tel: 613-957-3430 | Fax: 613-948-9838
AnneRenee.Bergeron@cbsa-asfc.gc.ca
Government of Canada | Gouvernement du Canada

De : Crain, Andrew
Envoyé : February 23, 2017 3:29 PM
À : Anderson, Adele; Bergeron, Anne Renée
Cc : Gualtieri, Francesca
Objet : RE: Guidance re: grievance related to Hing

Adele,

Anne-Renee, what is your opinion on this? (i.e. being H'd with only two days notice?)

Andrew

From: Anderson, Adele
Sent: February 23, 2017 3:20 PM

To: Crain, Andrew <Andrew.Crain@cbsa-asfc.gc.ca>
Cc: Gualtieri, Francesca <Francesca.Gualtieri@cbsa-asfc.gc.ca>
Subject: RE: Guidance re: grievance related to Hing

Thank you for your response.

Thank you!

Adele Anderson

Labour Relations Advisor, Corporate and Program Services Division
Canada Border Services Agency / Government of Canada
Adele.Anderson@cbsa-asfc.gc.ca / Tel : 613-991-5879 / TTY : 866-335-3237

Conseillère en relations de travail, Division des services organisationnels et programmatiques
Agence des services frontaliers du Canada / Gouvernement du Canada
Adele.Anderson@cbsa-asfc.gc.ca / Tél. : 613-991-5879 / ATS : 866-335-3237

From: Crain, Andrew
Sent: February 23, 2017 9:52 AM
To: Anderson, Adele <Adele.Anderson@cbsa-asfc.gc.ca>
Cc: Gualtieri, Francesca <Francesca.Gualtieri@cbsa-asfc.gc.ca>
Subject: RE: Guidance re: grievance related to Hing

25.21

1. An employee who is required to change his or her scheduled shift without receiving at least seven (7) days' notice in advance of the starting time of such change in his or her scheduled shift shall be paid for the **first (1st) shift worked on the revised schedule at the rate of time and one-half (1 1/2) for the first (1st) seven decimal five (7.5) hours and double (2) time thereafter**. Subsequent shifts worked on the revised schedule shall be paid for at straight-time rate, subject to Article 28, Overtime.
2. Every reasonable effort will be made by the Employer to ensure that the employee returns to his or her original shift schedule and returns to his or her originally scheduled days of rest for the duration of the master shift schedule without penalty to the Employer.

From: Anderson, Adele
Sent: February 23, 2017 9:13 AM

To: Crain, Andrew <Andrew.Crain@cbsa-asfc.gc.ca>

Subject: RE: Guidance re: grievance related to Hing

Good morning Andrew,

Have you had the chance to consider the information as presented below?

The union has provided us with an extension until February 25th for a response. Your advice would be greatly appreciated.

Adele Anderson

Labour Relations Advisor, Corporate and Program Services Division

Canada Border Services Agency / Government of Canada

Adele.Anderson@cbsa-asfc.gc.ca / Tel : 613-991-5879 / TTY : 866-335-3237

Conseillère en relations de travail, Division des services organisationnels et programmatiques

Agence des services frontaliers du Canada / Gouvernement du Canada

Adele.Anderson@cbsa-asfc.gc.ca / Tél. : 613-991-5879 / ATS : 866-335-3237

From: Anderson, Adele

Sent: February 14, 2017 3:33 PM

To: Crain, Andrew <Andrew.Crain@cbsa-asfc.gc.ca>

Subject: Guidance re: grievance related to Hing

Hi Andrew,

Any thoughts?

Adele Anderson

Labour Relations Advisor, Corporate and Program Services Division

Canada Border Services Agency / Government of Canada

Adele.Anderson@cbsa-asfc.gc.ca / Tel : 613-991-5879 / TTY : 866-335-3237

Conseillère en relations de travail, Division des services organisationnels et programmatiques

Agence des services frontaliers du Canada / Gouvernement du Canada

Adele.Anderson@cbsa-asfc.gc.ca / Tél. : 613-991-5879 / ATS : 866-335-3237

Andersen, CatherineD

From: Laviolette, Jonathan
Sent: October 19, 2017 02:58 PM
To: Mullin-Baker, Patricia
Subject: TR: H'ing guide / Guide sur H'Chômé
Attachments: Guidance on H-ing.(finaldraft).docx

Importance: High

Hi Patricia,

I sent the e-mail below to Samuel, but Annie-Sophie mentioned to me that I probably should have sent it to you instead...

Can you take a look at my request, talk to Samuel if necessary and either one of you get back to me with an update as soon as possible?

Thanks a lot!
Have a great day.

Jonathan

De : Laviolette, Jonathan
Envoyé : 19 octobre, 2017 1:24
À : Potvin, Samuel <Samuel.Potvin@cbsa-asfc.gc.ca>
Cc : Rossi, Jean-Philippe <Jean-Philippe.Rossi@cbsa-asfc.gc.ca>; Bazinet, Annie-Sophie <Annie-Sophie.Bazinet@cbsa-asfc.gc.ca>
Objet : TR: H'ing guide / Guide sur H'Chômé
Importance : Haute

Bonjour Samuel,

Pourrais-tu me dire où on en est avec l'approbation et la distribution de ce document?

Je l'avais élaboré avec Andrew Crain pour aider les gestionnaires à gérer les différentes situations de H chômé.

Il semble que ce soit tombé dans l'oubli depuis ce temps-là, mais une récente demande du VP ops au sujet des H chômés me fait croire que ce serait pertinent de revoir le tout et de le partager aux gestionnaires de l'organisation.

Je suis disponible si tu as des questions.
Bonne fin de journée.

Jonathan Laviolette-Farbotko

Conseiller technique en relations de travail, Division des ressources humaines
Agence des services frontaliers du Canada / Gouvernement du Canada
jonathan.laviolette@cbsa-asfc.gc.ca / Tél. : 514-283-8700 poste 8317 / ATS : 866-335-3237

Labour Relations Technical Advisor, Human Resources Division

Canada Border Services Agency / Government of Canada
jonathan.lavolette@cbsa-asfc.gc.ca / Tel: 514-283-8700 extension 8317 / TTY : 866-335-3237

De : Crain, Andrew

Envoyé : 27 octobre, 2016 8:48

À : MacPhee, Jennifer <Jennifer.MacPhee@cbsa-asfc.gc.ca>; Bazinet, Annie-Sophie <Annie-Sophie.Bazinet@cbsa-asfc.gc.ca>; Cardinal, Jennifer <Jennifer.Cardinal@cbsa-asfc.gc.ca>; Minniti-Rocco, Marisa <Marisa.Minniti@cbsa-asfc.gc.ca>; Lambert, Dawn <Dawn.Lambert@cbsa-asfc.gc.ca>; Smith, Janis <Janis.Smith@cbsa-asfc.gc.ca>; Oslund, Jodi <Jodi.Oslund@cbsa-asfc.gc.ca>; Breau, Nadine <Nadine.Breau@cbsa-asfc.gc.ca>; Lake, Susan <Susan.Lake@cbsa-asfc.gc.ca>; Lavolette, Jonathan <Jonathan.Lavolette@cbsa-asfc.gc.ca>; Laing, Erika <Erika.Laing@cbsa-asfc.gc.ca>
Cc : Campbell, Al <Al.Campbell@cbsa-asfc.gc.ca>; Wright, Cassandra <Cassandra.Wright@cbsa-asfc.gc.ca>; Carpinteiro, Lisa <Lisa.Carpinteiro@cbsa-asfc.gc.ca>; Allain Osborne, Claudelle <Claudelle.Allain.Osborne@cbsa-asfc.gc.ca>; McWilliam, Tracy <Tracy.McWilliam@cbsa-asfc.gc.ca>; Mlinarevic, Kathy <Kathy.Mlinarevic@cbsa-asfc.gc.ca>; Forte, Anne <Anne.Forte@cbsa-asfc.gc.ca>; Smith, Janand <Janand.Smith@cbsa-asfc.gc.ca>; Underwood, Marlene <Marlene.Underwood@cbsa-asfc.gc.ca>

Objet : H'ing guide / Guide sur H'Chômé

Good Morning

Please provide us with your region's comments on the attached by end of day on October 31st.

Bon matin,

Veuillez svp nous faire parvenir les commentaires de votre région sur la pièce jointe au plus tard le 31 octobre.

Thank you / Merci

Andrew Crain

Senior Labour Relations Advisor / Conseiller principal en relations de travail

Canada Border Services Agency / Agence des services frontaliers du Canada

Ottawa ON

Office: (613) 948-9859 (New/Nouveau)